

REMARKS

The Office action of April 28, 2008, has been received and its contents carefully noted.

Claims 12-22 have been deleted and replaced by claims 23-36. Of these, claims 23, 25, 26, 28-33, 35 and 36 correspond generally to deleted claims 12-22 except that 23, 26 and 33 do not set forth the “in particular” elements of prior claims 12, 14 and 20 which are now set forth in claims 24, 27 and 34, respectively.

Turning first to the formal rejection under 35 USC 112 raised against prior claim 17, its replacement claim 30 refers to “a range” rather than “the range” so that claim 30 is not subject to that formal rejection.

It is respectfully submitted that the rejection under 35 USC 102(b), based on Fabinski and applied against prior claims 12, 13 and 15-18 is not applicable with respect to the replacement claims 23-25 and 28-31. The Examiner states that Fabinski discloses all of the elements of prior claim 12, on the basis that Fabinski’s phase separator is a place where an aqueous sample such as water can be evaporated and combusted into different phases so that one can obtain a gaseous sample from water; this, per page 3, line 9-11 of the Office action. However, applicants cannot agree that such an interpretation is tenable in light of what is set forth in Fabinski since this references explicitly discloses, regarding the “phase separator 50, that “the sample is split in the phase separator (5) into a gaseous and

into a liquid part. The gaseous part,, is cooled in a cooler to such an extent that a substantial part of its water vapor content is deposited in the cooler by condensation. See, for example, the Abstract, lines 14-20 of the reference. Therefore, as can be seen from the foregoing, although the water sample is evaporated, cooling is used to obtain the dried gas, in contradistinction to combustion being employed as set forth in claim 23. Consequently, Fabinski not only does not disclose this feature of claim 23 but teaches a person skilled in the art *away* from the present invention.

In short, it is submitted that Fabinski neither discloses nor makes obvious at least that feature of claim 23 which calls for "evaporating and combusting an aqueous sample in at least one heating vessel equipped with a heating facility." In view of the above, the allowance of the claims in question is respectfully requested, it being noted that all of the process claims in this application depend from claim 23.

Turning next to the rejection under 35 USC 102(b) and based on Inoue et al and applied against prior claim 19, it is respectfully submitted that its replacement claim 32 is not subject to that rejection. Claim 32 includes a feature found in prior claim 16, to which corresponds new claim 29, namely, that calibration takes place in at least one of one or several steps with a large number of different calibration gases containing different predetermined amounts of the element to be detected. Inoue et al discloses only one cylinder with high purity air and does not deal with the concept of possible multiple different calibration gases that might require

different predetermined amounts of the elements to be detected, dispensed from multiple containers. It is, therefore, submitted that claim 32 is neither anticipated by or made obvious from Inoue et al, and its allowance, together with its dependent claims, is therefore respectfully requested.

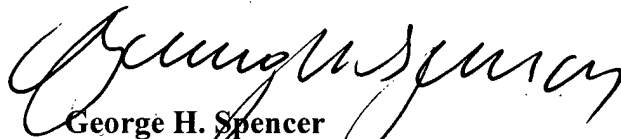
Referring to the rejection under 35 USC 103(a) applied against prior claims 14 on the basis of Fabinski and against prior claims 20 and 21 on the basis of Inoue et al and Fabinski, it will be noted that claim 26, which replaces claim 14, depends from claim 23 and adds to it the features set forth therein so that the claim defines subject matter that is not obvious over the cited prior art. The same applies to claims 33-35 which replace prior claims 20-22 and depend from claim 32, it being noted that the prior art is silent concerning the calibration that takes place in at least one of one or several steps, with a large number of different calibration gases containing different predetermined amounts of the element to be detected.

With respect to the Examiner's comments on page 8, lines 5-9, it is submitted that there is nothing to support the conclusion that it would have been obvious, at the time the invention was made, to make the substitution suggested by the Examiner. This is an additional reason for justifying the allowance of claim 35 which recites the hose in question. It is noted that the Office action discusses various features of the prior art but it is submitted nothing shown in the references

negates the patentability of the claims now appearing in the instant application. Accordingly, it is respectfully submitted that all of the claims appearing herein are patentable over the prior art, in view of which the allowance of the claims and this application are respectfully solicited.

Should the Examiner believe that a conference would be of value to expedite the prosecution of this application, please call undersigned counsel to arrange for such a conference.

Respectfully submitted,



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